



Creating a safer
Cambridgeshire

Domestic Violence Protection Order (DVPO)

Policy

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1.0 Introduction

- 1.1 The purpose of this document is to outline the use of Domestic Violence Protection Notices and Orders by Cambridgeshire Constabulary. It should be read in conjunction with the Domestic Abuse / Violence Policy.
- 1.2 The document is aimed at stakeholders in the management of domestic abuse investigations and the detention of domestic abuse perpetrators and re-enforces the message that dealing with any form of abuse of a victim should be done so positively as, post LPR, DA is “everyone’s business”

2.0 Background

- 2.1 Domestic Abuse remains an under reported and high risk area of criminality which will affect the lives of many residents within Cambridgeshire.
- Domestic Violence Protection Notices, and the associated Order, are powers which enable Police to take action outside of the usual criminal judicial route, safeguarding vulnerable victims when there is insufficient evidence to charge.
- The additional safeguarding is achieved by applying to magistrates’ for a civil order that enforces conditions, similar to bail conditions, in cases where previously no such powers were available.

3.0 A Domestic Violence Protection Notice (DVPN)

- 3.1 Police have the power to issue a perpetrator of abuse with a:
- Domestic Violence Protection Notice under Section 24-33 of the Crime and Security Act 2010.
- When the relevant criteria are met, with the authority of an officer of the rank of Superintendent that agrees that the victim requires protection, certain conditions can be imposed on the perpetrator that provide immediate protection.
- A DVPN last for 48 hours or until the DVPO hearing has sat. After that period the Police cannot act upon it. Once a DVPO is in place a DVPN is not valid. A DVPN is a notice to attend a court with conditions it is, in itself, not an “order”.
- 3.2 Conditions could include prohibiting the perpetrator from molesting the victim or attendance of a specified address.
- Molestation is defined so as to “*disturb, interfere with, or annoy*” the victim.
- The notice will also summons the perpetrator to attend a Magistrates Court where the case will be heard under civil provisions. The prohibition will come into effect upon service of the notice and will last for up to 48 hours, by which time they will have attended the Court. The usual Court exclusions around Weekends and Bank Holidays apply.
- 3.3 Any breach of this notice before the perpetrator has been to court for the “order” hearing facilitates a power of arrest and to put before the next court within 24hours to hear the order.

4.0 A Domestic Violence Protection Order (DVPO)

- 4.1 A magistrate, hearing the details of the case where a Domestic Violence Protection Notice (DVPN) under Section 24-33 of the Crime and Security Act 2010 has been served/breached, will decide whether the evidence is sufficient enough to demonstrate that the victim requires the protection of a Domestic Violence Protection Order (DVPO).

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- 4.2 Magistrates will issue a DVPO lasting between 14 and 28 days. They will either ratify or amend the restrictions imposed by the police on the DVPN.
- 4.3 In the 14-28 day period, police and partner agencies, will be granted a period of time, theoretically, free from molestation from the perpetrator. In which they will be expected to work with the victim and establish longer term safety plans and other measures such as:
- Non molestation order – prevents molestation by contact or attendance
 - Prohibitive Steps Order (PSO) – prevent the removal of children from the care of a parent
 - Occupation Order (sect 35 Family Law Act) – allows occupancy of a dwelling excluding one or more party
 - Residency Orders – determine where a child will live

Once issued a DVPO cannot be repealed or amended. If an “Order” is breached then it carries a power of arrest; the case must be heard at the issuing court. Breaches carry a penalty of a fine up to £5000 and/or imprisonment for up to 2 months.

5.0 When to consider applying for a Domestic Violence Protection Order.

- 5.1 Cambridgeshire Constabulary will consider a DVPO at the commencement of an investigation and in the following circumstances:
- in ALL domestic incidents recorded / reported, where the alleged perpetrator has been arrested; as domestic homicide has occurred in standard risk cases.
 - violence or threats of violence have been used during that report or incident
 - the perpetrator is aged 18 or over
 - no criminal prosecution is achievable and no viable investigative grounds exist to impose police bail conditions

6.0 OIC responsibilities.

- 6.1 The officer in the case (OIC) for the crime under investigation will be the OIC for the duration of the DVPN/O process and application. They will be responsible for the ongoing safety planning with the victim and the management of the post DVPO process.
- 6.2 It is essential for the victim’s safety, as the perpetrator cannot be kept in custody to facilitate the DVPO process, that the OIC continuously reviews the evidence whilst investigating the offence. The DVPN/O process should be contemplated at all times along-side an investigation where the evidence may be insubstantial and a prosecution may not be pursued by a gatekeeper or the Crown Prosecution Service.
- 6.3 Once a “NFA” decision is made the offender must be released from custody this should be coincided with the serving of the DVPN and Notice of Hearing documents
- 6.4 DVPN/O process is to be completed using Athena Case. However DVPN/O application is a civil process and therefore does not involve AOJ dept. Athena prepares but does not send documents to court. The following hyper/document link has been amended and is in place in case of Athena down time. The application should be entered into case when Athena resumes:

<O:\CaseFiles\Camb2. DVPN & DVPO applications\1. Create a New DVPN-O Application>

This link will open the following object:



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6.5 Athena and the hyperlink detail the mandatory documents required for the process. For advice seek a DA Champion and once compiled present the case/file to a gatekeeper preferably a Detective Sergeant / Inspector.

6.6 Once authorised the application can be presented through Athena to the Authorising Officer (AO); the on-call Superintendent. If authorised, a copy of the DVPN and details of the court hearing must be “served” on the perpetrator. They should be offered the opportunity to sign it and if they refuse, details of this recorded on the form. The officer template statement should then be completed.

7.0 Supervisor / Gatekeeper / Responsibilities

7.1 The need for DVPO could be apparent from the outset of the investigation; however criminal charge is preferred. Supervisors will carry out the initial assessment of the investigation prior to allocation. It is essential for the victim’s safety, as the perpetrator cannot be kept in custody to facilitate the DVPO process, that the OIC and their supervisor must continuously review the evidence whilst investigating the offence.

7.2 The DVPN/O process should be contemplated at all times along-side an investigation where the evidence may be insubstantial and a prosecution may not be pursued by the Crown Prosecution Service.

7.3 Once an “NFA” decision is made the offender must be released from custody this should be coincided with the serving of the DVPN and Notice of Hearing documents. This avoids any suggestion that the detainee were being held merely to obtain authority for the DVPN.

8.0 Authorising officer.

8.1 The authorising officer (Superintendent or above) will perform the role of independent assessor of whether Cambridgeshire Constabulary believe that the victim or associated person require protection from violence / threat of violence by the perpetrator and a suitable risk management plan or advice on its own is not sufficient to provide this protection. In order to make this decision, the following criteria need to be met:

- The perpetrator is aged 18 or over
- Reasonable grounds to believe that the perpetrator has used violence or has threatened violence toward the Victim/
- Perpetrator is to be released from Custody without any bail conditions.

8.2 The authorising officer will determine that they believe that there is sufficient justification to authorise a Domestic Violence Protection Notice and generate their element of the documentation (Sect 8 Supt Authorisation). If the authorising officer does not believe that there is sufficient justification to authorise a DVPN, then they will document their rational in the space provided on the form, endorse it and return it to the OIC.

9.0 Supervisor Responsibilities.

9.1 Supervisors are responsible for the management of the investigation and detainee’s ongoing detention but they are to ensure that if cases appear, evidentially, to be failing they highlight to OICs that a DVPN/O are considered at an early stage as a person cannot be held in custody to enable the issuing of a notice.

9.2 A person arrested for breaching a DVPO must be held in custody and brought before a magistrates’ court which will then hear the application for the DVPO within 24 hours from arrest. Once a DVPO is in place a DVPN is not valid. A Court will be able to take into account any evidence in relation to the alleged breach of the DVPN. A breach has no punitive measure under the Act other than to place before court in 24hours in order that the DVPO can be heard.

9.3 A person arrested for breaching a Domestic Violence Protection Order must be held in Custody and brought before the Magistrates Court within 24 hours beginning with the time of arrest.

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This period excludes Christmas Day, Good Friday, any Sunday or Bank Holiday in England and Wales.

- 9.4 PNLG Guidance indicates that a breach of a notice is in itself not an offence and therefore the detainee should not be charged. (PNLD information appears to conflict and gives offence wording and codes BUT clearly states that breaches is not an offence).

9.0 Case Files.

- 9.1 The Athena case file must go with the detainee and consist of the following;

- Superintendent's Authorisation Form (Blank Form is attached at Appendix A)
- Case Summary document from the OIC
- Any Victim or Witness Statements
- Athena "Risk Assessment Printout" DASH document
- Any Previous Domestic History involving Offender and/or Victim
- Exhibits if available including 999 Call, Photographs, Videos.
- PNC Print
- Officer Template Statement
- Copy of the DVPN Notice Served on Perpetrator
- Copy of the DVPN Notice of Hearing

10.0 After DVPN is issued

- 10.1 An application for a Domestic Violence Protection Order (DVPO) must be heard at the Magistrates' Court no later than 48 hours after the Domestic Violence Protection Notice (DVPN) was served (excluding Christmas Day, Good Friday, Sundays and Bank Holidays).

Cambridgeshire does not list DVPO applications on a Saturday.

- 10.2 It is the responsibility of the Police to prosecute applications for a DVPO at the relevant magistrates' court. We no longer delegate this responsibility to force solicitors via the Legal Services Department. Advice can and should be sought from a DA Champion.

- 10.3 Once served a DVPN, police should email the relevant paperwork to HMCTS as soon as possible and prior to the application being heard via

cb-enquiries@hmcts.gsi.gov.uk

- 10.4 The listing of breach hearing are at the same locations below. The "cut off" times do not apply as the defendant must be produced to the first available court no later than 24 hours from arrest

- 10.5 On the day of the hearing, the OIC or appointed deputy will attend Magistrates Court and present the application of the breach of the DVPN

11.0 When the DVPO is issued.

- 11.1 It is imperative that after a DVPO is issued the matter is referred to the MASH in order that associated partnership workers maximise their effort to:

- Interact and provide safety planning with the victim utilising all partnership agencies and ensure that the IDVA service are engaged regardless of risk assessment. The risk has increased upon the DVPO trigger.
- Attempt to engage with the Victim to establish if any further evidence can be obtained relating to domestic abuse
- Update PNC with the date and time that the DVPN was issued
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- Ensure the victim is updated with details of the DVPO and what it means to them
- Ensure the Athena Investigation notes are updated and maintained, and not filed until at least the the DVPO period has ended

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- If the Victim is not engaging, enforcement activity planned around pre-planned unannounced visits to ascertain if the perpetrator is in breach of the Order
- Entry on Briefing and Tasking for the relevant district of the existence of the DVPN/DVPO
- Temporary Marker on CC3 to cover the duration of the order to ensure officers are aware of it should we be called to this address.

12.0 Failure of the Perpetrator to appear at Court for DVPN/O Hearing

- 12.1 There is no power of arrest should this happen but the case will still be heard and a Domestic Violence Protection Order can still be made in their absence.
- 12.2 A DVPO is valid irrespective of whether it has been served on the perpetrator as they have been made aware of the prohibitions; these will be the same as the prohibitions on the DVPN that was been served upon them.
- 12.3 Proportionality and ethical policing would suggest that police should make a reasonable attempt to serve the notice upon the perpetrator however absence of this does not make the DVPO invalid and the perpetrator still liable for arrest. A DVPN and Notice of Hearing however must be served on the perpetrator.

13.0 Athena / Management Information

- 13.1 It is imperative to record our Management Information. Data must be recorded onto Athena and that the process of the application to the Superintendent and to Court, whether successful or not, are recorded in the Athena Investigation "action log". HMIC require this data when they inspect.

14.0 Kings Lynn PIC – Processing of a DVPN/O

- 14.1 The Kings Lynn Police Investigation Centre will process and apply for DVPN regardless of the Force the detainee is arrested from however the provision of OIC will come from the Constabulary where the DVPO is heard.
- 14.2 It is the responsibility of the area Duty DS to nominate an OIC following notification and service of the DVPN on the subject.

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